



Missouri Division of Finance

UPDATE

A Report of Missouri State Chartered Financial Institutions

Issue 98-4

October 1998

From . . . Commissioner Earl L. Manning

The Division of Finance was informed by letter dated July 17, 1998, that it had received re-accreditation by the Conference of State Bank Supervisors (CSBS), the professional organization of the state officials responsible for chartering, regulating and supervising the nation's 7,255 state-chartered banks and 450 state-licensed offices of foreign banks. The letter, signed by Mr. Bill C. Houston, chairman of the CSBS Performance Standards Committee, stated that the accreditation program identifies banking departments which serve the citizens of their state by operating a capable and professional regulatory program.

The primary purpose of the evaluation was to determine whether the Missouri Division of Finance had continued to fulfill its statutory responsibility to charter, examine, supervise, and regulate all of the state-chartered commercial banks and trust companies in Missouri. The Division was first

accredited on April 3, 1987 and reaccredited on July 23, 1993. Since then, the Division has submitted annual reports that the CSBS Performance Standards Committee used as a monitoring device.

A review team of three regulatory experts and the Performance Standards Committee staff director performed an on-site review of the Division's Jefferson City office during a three-day visit. The team conducted a thorough review of the Division's latest self-evaluation questionnaire, interviewed key personnel, and examined the products of supervision.

Starting with the 1993 on-site re-accreditation review, the team assessed the changes made in each of the functional areas to determine the degree of progress in the level of bank supervision. The team went to some length in meeting with me, then-Deputy Commissioner Kenneth L. Walls and Chief Examiner Lawrence C. Clos to conduct a review of the substance of this report,

including all findings and recommendations.

GENERAL USURY

Section 408.030 provides that the Director of Finance shall declare the quarterly market rate of interest each quarter, post it in accordance with Section 361.110 and publish it in appropriate publications. Said quarterly market rate for the period October 1, 1998 through December 31, 1998 shall be 8.6%; as an alternative, 10% may be used.

In This Issue

- **Compliance Tip: Right to Rescind**
- **Successful Bank Examinations**
- **FDIC Examinations & Y2K**
- **Interstate Banking**
- **E-Mail Addresses**

AN END TO QUALIFYING SHARES (AND MAYBE TO ANNUAL MEETINGS)

The legislature repealed the director's qualifying share requirement, but it does not take effect until the first of the year. After January 1, 1999, one need not own a share of bank or holding company stock in order to be a director.

Another change taking effect on January 1 is the provision allowing a bank to avoid holding an annual meeting if it properly obtains the approval of the shareholders. The change says that if a bank sends a proxy to all of the shareholders asking them to vote to skip the meeting that year, if at least 80% of the shareholders respond, and if 100% of those responding agree to go without a meeting, there need not be a meeting. The election of directors and other business to be transacted would be handled by the proxy vote sent at the same time. Compliance with the mailing and voting rules must be recorded in the directors' minute book.

GRADUATION

Donald R. Fischbach, senior examiner in the Kansas City North district, has completed studies and graduated from the Graduate School of Banking at the University of Wisconsin-Madison.

To quote from the announcement letter: "Over the course of this 25 month advanced bank management program, the demands upon students have been substantial. Each graduate devoted many hours in study and research, both on campus, during the three resident sessions, and at home, working on assignments designed to bring the educational experience back to the bank. We commend you and your organization for providing the encouragement and support which has made Don's significant accomplishment possible."

COMPLIANCE TIP: Right to Rescind

All lenders are aware that borrowers in certain mortgage transactions are entitled to a right to rescind the transaction within three business days and before disbursement per Regulation Z. However, there is a bit more to compliance than simply providing the right to rescind.

Each person with an ownership interest in the property has a right to rescind the transaction, not just the borrower. Two copies of the notice of the right to rescind must be given to each person entitled to rescind. This includes a person who is not obligated on the note but who signs the deed of trust to allow creation of a valid security interest. No disbursement may occur until the rescission period has expired unless all entitled to rescind waive the right. Waiver of the right to rescind is permissible only if the extension of credit is needed to meet a bona fide personal financial emergency.

Note that when a rescission occurs, not only does the security interest become void but the borrower cannot be held liable for any amount at all. The creditor must, within 20 days, return any money paid by the borrower to anyone connected to the transaction. This will occasionally result in the lender giving back money which the lender did not get in the first place (for example, appraisal and credit report fees.).

Remember: the lender may be obliged to give the right to rescind when the collateral is a mobile home. The right to rescind arises where a nonpurchase money security interest is given in the borrower's principal dwelling which could be a house, a condominium, a mobile home (with or without related land) or even a houseboat.

SUCCESSFUL BANK EXAMINATIONS

Preparing for a bank examination is high on a CEO's list of *least* favorite things. That's certainly understandable. Examinations disrupt normal routines, take valuable officer time, and can be stressful. However, the examination will be less trouble if the banker does a few things to prepare.

- ❑ *Attitude* – While some may view examiners as the enemy, it is important to remember that the law dictates the requirement of safety and soundness examinations. Examiners are not out to pester the banker. They are merely doing their jobs. A friendly, cooperative atmosphere will help the examiners get the information they need to finish your bank and move on to the next one. Examiners like a good working relationship with the banker.
- ❑ *Communication* – It takes two interested parties to communicate effectively. The examiner and the banker share equally in the process. Why risk misunderstandings if they can be avoided. Examiners should keep management informed of their plans, requests for information, meetings and findings. By the same token, the CEO should make it a point to visit frequently with the Examiner-In-Charge. Are the examiners getting the information and assistance they need? Are they aware of the bank's in-house rules regarding smoking, designated parking and so forth?
- ❑ *Pre-Examination Checkup* – Normally the bank will receive several weeks advance notice of the pending examination. An information request list will be provided. Efforts to ensure the information provided is well prepared, complete and timely will pay big dividends in reducing the time examiners spend at the bank. Questions about the pre-examination requests can be resolved with a call to the examiners for clarification – don't wait until they arrive. The CEO should do a check before the examiners arrive to ensure requested information has been provided or made ready. This is a good opportunity for senior officers to self-assess areas of the bank operations. Are files in good order? What is management doing to improve areas subject to past regulatory criticism? It is also very beneficial to appoint an experienced officer as the primary liaison for examiners while at the bank. This officer can minimize disruptions of other bank staff.
- ❑ *Management Meetings* – These include loan discussions and meetings to review the examination findings. The examiner's comments may not be what the banker wants to hear, but they are facts which need to be known. Again, friendly, courteous communication is a valuable tool to get desired results. Be receptive. After all, the examiner can provide objective insight gained from the perspective of reviewing numerous banks. This does not mean the banker must agree with everything the examiner says. The banker should be sure to understand the criticisms and that the examiner has a full understanding of all the facts. The banker is the expert on what goes on in the bank. If the banker disagrees with the examiner's conclusions, the banker should state his position and should be sure to point out steps already underway to address examiner concerns so these can be noted in the examination report.

These suggestions may not make the process an enjoyable experience, but they will pay rewards in the form of a simple and successful examination.

Division of Finance
 301 West High Street
 Harry S Truman State Office Building
 Room 630
 Mail: P.O. Box 716
 Jefferson City, Missouri 65102-0716

Web site: www.ecodev.state.mo.us/finance
 E-mail: finance@mail.state.mo.us

General Office Number: 573-751-3242
 FAX Number: 573-751-9192

FIELD OFFICE INFORMATION

DISTRICT	LOCATION	TELEPHONE
St. Joseph	Missouri State Office Building 525 Jules #309 St. Joseph, Missouri 64501 Mail: Same E-mail: finstj@ponyexpress.net	816-387-2259 816-387-2327 (FAX)
Columbia	3610 Buttonwood Drive (65201) Mail: P.O. Box 638 Columbia, Missouri 65205 E-mail: fincol@mail.state.mo.us	573-884-6454 573-884-1426 (FAX)
Kansas City	Missouri State Office Building 615 East 13th Street, Room 511 Kansas City, Missouri 64106 Mail: Same E-mail: finkcn@mail.state.mo.us finkcs@mail.state.mo.us	816-889-2207 (KC-S) 816-889-2279 (KC-N) 816-889-2761 (Trust) 816-889-6222 (FAX) 816-889-6221 (Consumer Credit)
St. Louis	815 Charter Commons Drive, Suite 2 Chesterfield, Missouri 63017 Mail: Same E-mail: finsln@mail.state.mo.us finsls@mail.state.mo.us	314-207-8011 (St.L-N) 314-207-8014 (St.L-S) 314-207-8013 (FAX) 314-207-8015 (Trust) 314-207-8016 (Consumer Credit)
Springfield	1410 S. Kansas Expressway (65807) Mail: P.O. Box 10287 Glenstone Station Springfield, Missouri 65808 E-mail: finspr@mail.state.mo.us	417-895-7545 417-895-7546 417-895-7547 (FAX)
Sikeston	203 North New Madrid Street Mail: P.O. Box 747 Sikeston, Missouri 63801 E-mail: finsik@ltd.net	573-472-5266 573-472-5267 (FAX)

FDIC EXAMINATIONS & Y2K

The FDIC has assured CSBS that rumors the FDIC will suspend its safety and soundness examination program to devote all resources to Y2K assessments are false. To prepare for potentially serious problems resulting from the date change, the FDIC's contingency plans include reallocation of safety and soundness examiners and related resources to the resolutions area in 1999, if the need arises. Whether there will be such a need should become clear by mid 1999, after the FDIC and other regulators have completed on-site assessments for testing and contingency planning.

The FDIC has indicated that examination resources will be directed to Y2K efforts, the number one safety and soundness issue, as necessary. All told approximately 200 full-time equivalent examination staff have been devoted to Y2K efforts and most of the field examiner staff has participated in Y2K reviews.

The FDIC states that, while the results of the initial on-site Y2K assessments have been encouraging, reviews of the most challenging Y2K project phases of testing and contingency planning are just beginning. If the findings of the earlier reviews hold true during this round of assessments, the FDIC does not now anticipate any sizable disruptions in safety and soundness full-scope examinations scheduled during 1999. If this does not happen and the FDIC is compelled to reallocate resources to address Y2K related problems, resulting in an inability to complete all scheduled safety and soundness full-scope examinations, the FDIC will inform the affected state bank supervisors as soon as possible.

BOB BUFE RETIRES

After 37 years of service, St. Louis North District Supervisor Robert J. Bufe retired from the Division on July 31. Bob joined the Division in 1961, and rose through the ranks to become supervisor of the St. Louis District in the late 1960s.

FEDERAL REGULATIONS AVAILABLE

Copies of FRB banking regulations (from A to DD) are available at no cost by calling the publications section of the Federal Reserve Banks.

Kansas City: (816) 881-2000
St. Louis: (800) 333-0810

INTERSTATE BANKING

Although it has been a little over a year since Riegle-Neal brought interstate branching to Missouri, we still get questions about the law. We are asked whether Missouri opted in, whether a bank in a foreign state can place a branch here and what constitutes branching. Missouri did not opt in early but since it did not opt out, Riegle-Neal's branching provisions took effect June 1, 1997. Other than through an emergency resulting from a bank failure, a bank from outside can enter the state only by merging with a Missouri bank. That is because we do not have a de novo branching statute. In fact, Missouri has a 5-year age minimum, i.e., a Missouri bank less than five years old cannot be acquired by an out-of-state bank. Loan production offices are permitted here which is an exception to the rule and, of course, neither ATMs nor ALMs are considered branches.